

677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

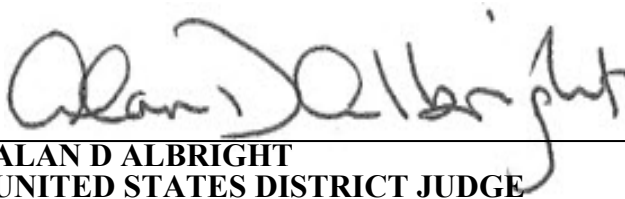
Plaintiff filed objections on March 28, 2023. ECF No. 167. Defendants filed objections on March 27, 2023. ECF No. 166. The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review and in accordance with the Court's rulings from the bench on April 21, 2023, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted and the parties' objections overruled. *See* ECF Nos. 183, 189.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Gilliland, ECF No. 161, is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff and Defendants' objections are **OVERRULED**.

IT IS FINALLY ORDERED that Defendants' Motion for Summary Judgment of Invalidity Pursuant to 35 U.S.C. § 101 (ECF No. 79) is **DENIED**, Defendants' Motion for Summary Judgment of Noninfringement (ECF No. 82) is **DENIED**, Defendants' Motion to Strike New Infringement Theories (ECF No. 83) is **DENIED**, Defendants' Partial Motion for Summary Judgment of No Willful Infringement (ECF No. 80) is **GRANTED**, ECF No. 81 is **GRANTED** as to Dr. Rubin's opinions relying on the European PTO opinion but **DENIED** on all other grounds, ECF No. 84 is **DENIED**, and ECF No. 130 is **DENIED**.

SIGNED this 30th day of April, 2023.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE